

### 3. Consumers and bystanders are left out

The bill only compensates those who were occupationally exposed to asbestos—and then, only if in contact with asbestos for more than 5 years—and the family members of exposed workers. It does not, for example, compensate the high school kids in factory towns across the country who unloaded boxcars filled with vermiculite ore to earn money over their summer vacations and now, maybe 20 years or more later, have developed lung disease. It makes no provision for individuals harmed by non-occupational exposure, other than the residents of Libby, Montana. The EPA currently has 28 nationwide factory site “hot spots” under priority surveillance to determine the health effects of asbestos exposure. These sites received 80% of the Libby, Montana vermiculite ore sent to a total 200 factories in the U.S. where the toxic material was processed for use in consumer goods. The remaining 172 sites are of secondary interest to the EPA, but are also included in its surveillance plan. None of the community members exposed to asbestos dust from factory exhaust and particles transmitted widely by workers on their clothing and skin in any of these 200 towns will be covered under the trust fund.

Also excluded from qualifying for benefits are consumers who purchased and indifferently used and disposed of some 3,000 commercial products containing asbestos, including people who did their own automotive repairs such as replacing brake linings. Nor does the bill include occupants of 30 million houses nationwide containing asbestos-laden insulation in their attics, the health consequences of which have as yet been unexplored—although it has been established that there is no safe level of exposure to asbestos. It leaves out the hundreds of thousands of New Yorkers who have lived and worked in the vicinity of Ground Zero from the World Trade Center’s destruction forward. The bottom line is that because the medical criteria rely on occupational exposure thresholds, they exclude millions of individuals who unwittingly incurred the risk of disabling and potentially fatal disease by purchasing products or living in communities with asbestos-related industries.

#### Contacts

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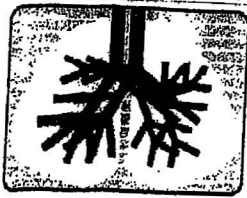
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Public Citizen is a national, nonprofit consumer advocacy organization based in Washington, D.C.

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2/9/05

PRELIMINARY REPORT ON 79 CHEST XRAYS REVIEWED  
RELATIVE TO THE ASBESTOS INJURY RESOLUTION ACT OF 2005

At the request of Jon Heberling, Dr Black and I reviewed 79 chest xrays to evaluate qualification for compensation under the Asbestos injury Resolution Act of 2005. This was not a controlled study and it was biased toward the more ill patients. This occurred as all patients xrays looked at were from my Spokane practice which incorporated many severely ill patients and ones who had lost 10-15% of their lung function over a period of several or more years. All films were reviewed carefully and measurements taken of pleural thickness, review of any interstitial disease, review for blunting of either costo-phrenic angle, or charts reviewed for prior thoracic surgery that would create blunting of a costo-phrenic angle. I have read many more films on patients from Libby and estimate that overall only 10 - 20 % of all the patients would qualify.

RESULTS

15 patients were on oxygen with an FEV<sub>1</sub>/ FVC ratio > 65%; only 4 qualified  
8 patients had died- 5 qualified/ 3 did not qualify. All died of respiratory failure from asbestos pleural disease except one.

22 of 27 that qualified had blunting of one costo-phrenic angle.

5 of 27 qualified met the B2 requirement.

17 patients had FVC, TLC, and DLCO all over 80% of predicted (normal) and only 1 qualified

29 patients had FVC, TLC, or DLCO 60- 80% and considered to be in an intermediate range. 10 qualified. All were very symptomatic.


33 patients had FVC, TLC, or DLCO under 60% (severe); only 16 qualified, including only 2 of 6 who died.

Of the 71 living patients, only 22 qualified ( 31%). 18 of these had FVC's or DLCO's of less than 70% of predicted. Only 3 of 71 qualified with FVC above 80% of predicted. 2 of those though had DLCO's below 70% of predicted. Another significant consideration is that we use normal values (Knudsen, Miller), that range 5- 10% higher than the Crapo norms used in the AMA Guides to evaluation of Permanent Impairment (5<sup>th</sup> Ed.).

The average FVC in this group of 79 was 65% of predicted and the DLCO 70% (Knudsen/ Miller). Of the 22 alive qualifying, 2 had had thoracic surgery which may have created the qualifying blunting of the costo-phrenic angle and would exclude them from compensation.

Only 4 of 79 patients had interstitial disease of 1/0 or greater, typical of Libby tremolite disease. Libby asbestos disease is predominantly a pleural disease.

It is clear that the proposed law is inadequate to compensate the approximately 1500 asbestos victims in Libby, Montana who have been identified so far. There is also no scientific basis for the B2 requirement or the angle blunting requirement outlined in the law.

  
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EXHIBIT

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## LOG OF ASBESTOS PATIENTS CRITERIA STUDY.FVC.xls

	FVC	TLC	DLCO	INT	R	R	R	L	L	L	MEETS CRITERIA ?	PLEURAL	INT	DIED	QUALIFY?	COMMENTS
	%	%	%		THICKNESS	%	BLUNTING	THICKNESS	%	BLUNTING						
BENIGNI, Edward	125	92	58	NEG	2	80	NEG	2	70	NEG		NO	NO			
WILCOX, Harry	120	100	84	NEG	1	50	NEG	2	25	NEG		NO	NO			
RIBLEY, Harry	118	84	53	NEG	2	30	NEG	1	40	NEG		NO	NO			
REDMAN, William L.	113	92	71	*0/1	1	25	NEG	2	10	NEG		NO	NO			
	112	88	91	NEG	1	20	NEG	0	0	NEG		NO	NO			
McCormick, Fred	104	102	82	NEG	2	80	NEG	4	80	NEG		NO	NO			
SLAUSON, Ed	104	103	88	NEG	2	10	NEG	3	10	NEG		NO	NO			
RADIC, Ed	103	103	82	*1/1	3	80	NEG	2	25	NEG		NO	YES		X	
	102	98	93	*0/1	2	15	NEG	2	25	NEG		NO	NO			
	101	88	117	NEG	2	80	NEG	2	30	NEG		NO	NO			
CANNON, Ed	100	98	82	NEG	5	90	NEG	5	70	NEG		YES	NO		X	
BADLEY, Ed	98	104	84	NEG	2	100	YES	2	100	NEG		NO	NO		X	
GREEN, Ed	97	87	89	NEG	2	10	NEG	1	15	NEG		NO	NO			
BACHE, Ed	98	88	108	NEG	3	30	NEG	2	30	NEG		NO	NO			
ORR, Ed	98	89	84	NEG	1	50	NEG	1	50	NEG		NO	NO			
PENNOCK, Ed	98	82	98	NEG	0	0	NEG	2	5	NEG		NO	NO			
WRIGHT, Ed	95	89	115	NEG	2	15	NEG	5	70	NEG		NO	NO			
ALLEN, Thomas J.	92	91	88	NEG	3	80	NEG	2	90	NEG		NO	NO			
RIDDLE, Ed	90	80	72	*0/1	2	40	NEG	2	50	NEG		NO	NO			
BENEFIS, Ed	89	101	88	NEG	3	20	NEG	4	50	NEG		NO	NO			
COLLINS, Ed	89	82	92	NEG	0	0	NEG	0	0	NEG		NO	NO			
JOHNSON, Raymond	89	88	81	NEG	4	40	NEG	6	40	NEG		NO	NO			
WRIGHT, Andrew J.	89			*0/1 (R-only)	5	80	NEG	2	80	YES		NO	NO		X	
BOOK, Ed	87	134	83	NEG	1	30	NEG	1	50	NEG		NO	NO			
SWENNE, Ed	87	81	84	NEG	3	40	NEG	5	30	NEG		NO	NO			
WARNER, Ed	87	78	84	NEG	7	100	NEG	4	100	NEG		NO	NO			
LUNDSTROM, Ed	85	84	95	NEG	1	25	NEG	NEG	NEG	NEG		NO	NO			
	83	98	82	NEG	5	80	NEG	3	40	YES		NO	NO		X	
SEARLEY, Ed	83	80	85	NEG	3	80	NEG	0	0	NEG		NO	NO		X	
	81	91	78	NEG	2	30	NEG	2	40	NEG		NO	NO			
WRAV, Ed	80	93	59	NEG	3	70	NEG	3	50	NEG		NO	NO			
SWITZER, Ed	79	70	69	NEG	1	30	NEG	3	80	YES		NO	NO		X	
WILKES, Ed	79	81	78	NEG	3	100	YES	2	100	NEG		NO	NO		X	
NOBLE, Ed	78	78	98	NEG	1	100	NEG	1	100	NEG		NO	NO			
	78			NEG	7	80	NEG	4	90	NEG		NO	NO		X	
FRUIT, Ed	78	107	68	NEG	2	100	NEG	1	YES	YES		YES	NO		X	
	78	78	78	NEG	3	100	NO	3	100	YES		NO	NO		X	
	75	87	59	NEG	2	70	YES	3	70	YES		YES	NO		X	
CRAIG, Ed	75	88	84	NEG	3	80	NEG	3	70	NEG		NO	NO			
BALL, Ed	74	82	89	NEG	2	15	NEG	3	50	NEG		NO	NO			
BILLADEAU, Ed	74	84	80	NEG	2	70	NEG	1	25	NEG		NO	NO			
DICKERMAN, Ed	74	78	59	NEG	4	25	NEG	NEG	NEG	NEG		NO	NO			
STACEY, Ed	72	88	85	NEG	3	80	NEG	5	40	NEG		NO	NO			
SWENNE, Ed	72	70	92	NEG	5	80	NEG	6	60	NEG		YES	NO		X	
BUSSY, Ed	70	78	43	NEG	1	30	YES	1	5	NEG		NO	NO		X	
NOBLE, Ed	70	88	83	NEG	5	80	NEG	3	70	NEG		NO	NO			
MINIS, Ed	70	83	85	NEG	2	20	NEG	2	25	NEG		NO	NO			
	68	72	84	*0/1	3	50	YES	2	80	NEG		NO	NO		X	
FARVER, Ed	67	47	72	*1/0	3	40	NEG	3	25	NEG		NO	YES		X	
BAEN, Ed	66	72	84	NEG	4	100	NEG	4	100	YES		NO	NO		X	
CHARNOV, Ed	66	82	87	*1/1	1	80	NEG	1	80	NEG		NO	YES		X	
	64	89	97	NEG	2	80	NEG	2	80	NEG		NO	NO			
SMITH, Ed	64	88	58	NEG	3	80	NEG	3	90	NEG		NO	NO			
VINSON, Ed	64	81	43	NEG	1	20	NEG	2	80	NEG		NO	NO			
WASCO, Ed	64	70	84	NEG	2	30	NEG	1	10	NEG		NO	NO			
SHEA, Ed	63	68	50	NEG	10	80	YES	6	50	YES		YES	NO		X	
BOLLES, Ed	62	78	67	NEG	3	80	NEG	6	40	NEG		NO	NO			
HEDAH, Ed	62	80	94	NEG	5	40	NEG	2	80	NEG		NO	NO			
BRADY, Ed	61	83	97	*1/0 (L-only)	3	50	NEG	3	80	NEG		NO	NO			
PAUL, Ed	61	82	43	NEG	15	20	NEG	2	20	NEG		NO	NO			
PINSTEAD, Ed	60	73	80	NEG	3	80	NEG	6	90	YES		NO	NO		X	
	58	73	78	NEG	1	25	NEG	1	20	NEG		NO	NO			
OKLE, Ed	57			NEG	1	80	NEG	3	80	YES		NO	NO		X	
FELLENBERG, Ed	56	45	83	NEG	3	10	YES	6	80	YES		YES	NO		X	
DUTTON, Ed	55	42	40	NEG	5	25	NEG	3	25	NEG		NO	NO			
	53	74	49	NEG	0	0	NEG	9	50	YES		NO	NO		X	
COLE, Ed	52	73	47	NEG	2	80	NEG	2	70	NEG		NO	NO			
VINSON, Ed	50	81	47	NEG	3	50	NEG	2	50	NEG		NO	NO			
	48	41	42	*2/2	0	0	YES	1	80	NEG		NO	YES		X	
HILL, Ed	47	58	40	NEG	5	20	YES	3	15	NEG		YES	NO		X	
KARDIN, Ed	47	47	39	NEG	6	50	NEG	7	80	YES		YES	NO		X	
	47	87		NEG	2	80	NEG	3	100	YES		YES	NO		X	
DAVIDSON, Ed	45	84	102	NEG	5	40	NEG	4	40	YES		YES	NO		X	
	44	84	34	NEG	5	50	YES	5	80	YES		YES	NO		X	
DICKERMAN, Ed	41	79	28	*1/1 (L ONLY)	2	25	NEG	2	100	NEG		NO	NO		X	
JACOBSEN, Ed	40	72	87	NEG	5	80	NEG	3	70	NEG		NO	NO			
FLETCHER, Ed	39	58	45	NEG	4	70	NEG	2	70	NEG		NO	NO			
COLE, Ed	38			NEG	1	100	NEG	1	40	NEG		NO	NO		X	
GASTON, Ed	31	38	28	NEG	3	70	NEG	3	70	YES		YES	NO		X	

## LOG OF ASBESTOS PATIENTS CRITERIA STUDY, ON 02.xls

	FVC	TLC	DLCO	INT	R	R	R	L	L	L	
	%	%	%		THICK	%	BLUNT	THICK	%	BLUNT	
BACHE, frank	96	86	106	NEG	3	30	NEG	2	30	NEG	
BALL, irving	77	93	87	NEG	2	15	NEG	2	15	NEG	
BENEFIELD, donald	96	96	84	NEG	3	20	NEG	4	50	NEG	
DICKERMAN, lois	70	86	57	NEG	3	25	NEG	4	25	NEG	
FELLENBERG, Ruben	56	45	63	NEG	3	10	YES	6	80	YES	
HILL, dayton	47	58	40	NEG	5	20	YES	3	15	NEG	
JOHNSON, raymond	98	88	71	NEG	4	40	NEG	6	40	NEG	
MCCOLLUM, bob	104	103	88	NEG	2	10	NEG	3	10	NEG	
PAUL, Claude	61	82	43	NEG	15	20	NEG	2	20	NEG	
SHEA, lois	63	66	50	NEG	10	80	YES	8	50	YES	
VINSON, kay	50	81	47	NEG	3	50	NEG	2	50	NEG	
WILBURN, harold	116	84	53	NEG	2	30	NEG	1	40	NEG	
WRAY, brian	80	93	59	NEG	3	70	NEG	3	50	NEG	
FARMER, ARTHUR	67	47	72	^1/0	3	40	NEG	3	25	NEG	
DUTTON, merritt	63	58	39	NEG	5	25	NEG	3	25	NEG	